IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-09-2006

CORAM :

THE HONOURABLE MR.JUSTICE A. KULASEKARAN

W.P. No. 17040 of 1999

P. Muthusamy .. Petitioner

Versus

1. Tamil Nadu Electricity Board
   rep. by its Chief Engineer
   (Personnel)
   Anna Salai
   Chennai - 600 002

2. The Regional Chief Engineer
   Distribution/TNEB/Villupuram
   Tamil Nadu Electricity Board
   Villupuram

3. The Superintending Engineer
   V.R.P. Electricity Distribution
   Circle
   TNEB, Villupuram .. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus as stated therein.

For Petitioner : Mr. Senthilkumar
For Respondents : Mr. M. Vaidyanathan

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ORDER

The prayer in this Writ Petition is for a Writ of Mandamus directing the respondents to forthwith pay the salary to the petitioner for the period from 01.01.1996 to 01.05.1997 with all consequential benefits.

2. The learned counsel for the petitioner submitted that when the petitioner was working as Stores Custodian, Grade-I at Chinna Salem in the respondents Electricity Board, by order dated 14.12.1995 of the third respondent, he was transferred from Chinna Salem to Villupuram. The petitioner has applied for medical leave between 27.12.1995 and 07.01.1996 which was also sanctioned by the third respondent. In the meantime, he filed W.P. No. 20 of 1996 challenging the said transfer order dated 14.12.1995 and on

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03.01.1996, in WMP No. 28 of 1996, this Court granted interim stay, which was subsequently made absolute. Though the petitioner approached the respondents to allow him to join duty, the same was not considered; that the third respondent passed an order dated 30.04.1997 reinstating the petitioner in service in the original place at Chinna Salem, which was received by him only on 02.05.1997 and immediately he joined duty on the same day. The present writ petition is filed seeking for a Writ of Mandamus to direct the respondent to pay salary to the petitioner from 01.01.1996 to 01.05.1997 with all consequential benefits.

3. Mr. Vaidyanathan, learned Standing counsel appearing for the respondents/Board submitted that soon after the order of transfer issued by the third respondent on 14.12.1995, the petitioner was relieved on 27.12.1995 itself, suppressing the same, the petitioner has filed the above said writ petition No. 20 of 1996 and this Court also granted interim order on 03.01.1996, staying the operation of the transfer order, however, in obedience of the interim order passed by this Court, the respondent has passed an order of reinstatement on 30.04.1996, hence, the petitioner is not entitled to the salary for the period for which he filed this writ petition and prayed for dismissal of the same.

4. It is an admitted fact that medical leave was granted to the petitioner by the third respondent between 27.12.1998 to 07.01.1996 and this Court has granted interim stay on 03.01.1996 in WMP No. 28 of 1996 in WP No. 20 of 1996 and the same was admittedly made absolute. The respondents herein not filed any application to vacate the said interim order or filed an appeal against the same, while so, no valid explanation is offered by the respondents as to why the said order dated 03.01.1996 in WMP No. 28 of 1996 was not implemented. It is also not the case of the respondents that after the interim order granted by this Court, the petitioner has failed to join duty. The respondents have chosen to pass an order of reinstatement only on 30.04.1997 and the same was received by the petitioner on 02.05.1997 and immediately, he joined duty on the same day.

5. In view of the said facts that the interim stay granted by this Court was in force from 03.01.1996 till the petitioner joined duty on 02.05.1997 and also the fact that medical leave was granted from 27.12.1995 to 07.01.1996, this Court is of the considered view that the petitioner is entitled to the salary for the period from 01.01.1996 to 01.05.1997 and other attendant benefits. If any amount is paid to the petitioner for the said period, the same can be adjusted by the respondents.

6. It is submitted by the learned counsel for the petitioner that the petitioner attains the age of superannuation very shortly and prayed this Court to direct the respondents to pay the salary and other attendant benefits within a short period. Considering the said submission of the learned counsel for the petitioner, the respondents are directed to pay the salary and other attendant benefits to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

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7. The writ petition is disposed of in the above terms. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rsh

To

1. The Chief Engineer,
   Tamil Nadu Electricity Board
   (Personnel)
   Anna Salai
   Chennai - 600 002

2. The Regional Chief Engineer
   Distribution/TNEB/Villupuram
   Tamil Nadu Electricity Board
   Villupuram

3. The Superintending Engineer
   V.R.P. Electricity Distribution
   Circle TNEB, Villupuram

1 cc to Mr.V.Vaidyanathan, Advocate, Sr. 41453
1 cc to Mr.Muthumani Doraisamy, Advocate, Sr. 41257

WP No. 17040 of 1999

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